

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOCUM
ELECT
DOC #:
DATE F

FILED

11/22/2019

-----X
CHARLES PHILLIPS, ALFRED J. VENT, each :
individually as residents and as area representatives :
in Prospect Park, and JAY WEINBERGER, as :
resident of Prospect Park, :

Plaintiffs, :

-against- :

19-cv-5113 (NSR)

OPINION AND ORDER

KERRY A. DELANEY, Individually, and as Acting :
Commissioner of the Office of Persons with :
Developmental Disabilities; OFFICE OF :
PERSONS WITH DEVELOPMENTAL :
DISABILITIES; STANLEY SILVERSTEIN, :
Individually, and as Director of Institutes of :
Applied Human Dynamics; INSTITUTES OF :
APPLIED HUMAN DYNAMICS; MARY T. ST. :
MARKS, as President of the Board of Directors for :
Institutes of Applied Human Dynamics; THOMAS :
ROACH, Individually, and as Mayor of the City of :
White Plains New York; and the CITY OF WHITE :
PLAINS, NEW YORK, :

Defendants. :

-----X
NELSON S. ROMÁN, United States District Judge:

Plaintiffs Charles Phillips and Alfred A. Vent,¹ proceeding *pro se*, initiated this action in New York State Supreme Court, Westchester County, on or about May 15, 2019. (*See* ECF No. 1.) The action was removed to the United States District Court for the Southern District of New York on May 31, 2019. (*Id.*) Before the Court is Plaintiffs' cross-motion for summary judgment against Defendants. (ECF No. 75.) For the following reasons, Plaintiffs' cross-motion is

¹ Plaintiff Jay Weinberger withdrew from this action on July 17, 2019. (ECF No. 31.) Further, the court dismissed any claims made by *pro se* Plaintiffs on behalf of corporate entities or other individuals at a conference on July 18, 2019, explaining that *pro se* litigants lack legal standing to represent anyone other than themselves.

DENIED without prejudice to renewal at an appropriate juncture.

DISCUSSION

In June of 2019, Defendants sent letters to the Court requesting a pre-motion conference in anticipation of their motions to dismiss, in accordance with Rule 2(A)(ii) of this Court's Individual Practices. (ECF Nos. 13, 15.) A pre-motion conference was held on July 18, 2019. At the conclusion of the conference, the Court, *inter alia*, directed Defendants to serve their motions to dismiss by September 16, 2019, with opposition from Plaintiffs to be served by October 31, 2019, and replies to be served by November 15, 2019.

On August 6, 2019, without having sought a pre-motion conference, Plaintiffs filed a motion for summary judgment. (ECF No. 38.) The Court denied the Plaintiffs' motion for failure to comply with the Court's Individual Civil Rule 3(A)(ii) and to submit a letter for a pre-motion conference. (ECF No. 42.) Plaintiffs thereafter filed a letter seeking leave to serve a summary judgment motion, (ECF No. 43), but the Court did not grant such leave. Nonetheless, on October 31, 2019, the date on which Plaintiffs' opposition to Defendants' motions to dismiss was due, Plaintiffs served and filed a cross-motion for summary judgment. (ECF Nos. 59, 75.)

Plaintiffs' cross-motion for summary judgment again fails to comply with this Court's Individual Civil Rule 3(A)(ii), requiring a pre-motion conference. Moreover, Plaintiff's cross-motion is premature, as Defendants' pre-answer motions to dismiss are currently pending and no discovery has been exchanged in this action.

CONCLUSION

In light of the lack of discovery in this case and Plaintiffs' failure to adhere to the Court's

Individual Rules, Plaintiffs' cross-motion for summary judgment is DENIED without prejudice to renewal at an appropriate juncture. To the extent that Plaintiffs include in their cross-motion submissions arguments in opposition to Defendants' motions to dismiss, those submissions will be deemed exclusively opposition to the motions to dismiss. The Clerk of the Court is respectfully directed to terminate the cross-motion at ECF No. 75, mail a copy of this Opinion and Order to each Plaintiff at the addresses listed on the docket, and file proof of such service.

Dated: November 22, 2019
White Plains, New York

SO ORDERED:

A handwritten signature in dark ink, appearing to read "Nelson S. Román", is written over a horizontal line.

NELSON S. ROMÁN
United States District Judge